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NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS  
OAL DOCKET No. BDSME 07654-2006N

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

ALAN G. KELSEY, M.D.  
License No. MA03789800

TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the State Board of Medical Examiners ("Board") upon notification that on February 28, 2006, Indictment 06-02-113-I ("Indictment") was filed in Superior Court in Hunterdon County charging Alan G. Kelsey, M.D. ("Respondent") with two counts in violation of N.J.S.A. 2C:14(3)(b) and (2)(c)(1), regarding individuals K.G. and A.D.

Following Respondent's Indictment, the Attorney General on May 3, 2006 filed a Verified Complaint with the Board seeking the temporary suspension of Respondent's license based on his alleged violation of N.J.S.A. 45:1-21(c), (d), (e), (f), (h), and/or (i),

CERTIFIED TRUE COPY

N.J.S.A. 45:9-6, and/or N.J.A.C. 13:35-6.3(c), (d), (h), and/or (i) with respect to patients K.G., A.D., and M.H., and his alleged violation of N.J.S.A. 45:1-21(e), (h), and/or (i), N.J.S.A. 45:9-6, and/or N.J.A.C. 13:35-6.3(h) and/or (i) with respect to employees C.A., B.L., and L.G.

Following a hearing on May 10, 2006, the Board imposed temporary practice limitations on Respondent's license pending resolution of the charges in the Verified Complaint, including limiting his practice to the treatment of male patients in his own office and requiring him to have a Board-approved chaperone present whenever he is in the office in the presence of females. These limitations were memorialized in an Order of Temporary Limitation on Licensure filed May 15, 2006 and effective May 10, 2006. Respondent filed an Answer to the Verified Complaint on October 4, 2006.

By Order of Postponement dated January 12, 2007 ("PTI Agreement"), Respondent was accepted into Pretrial Intervention in Hunterdon County for a three-year period ("PTI Term") and subject to standard and various special conditions of PTI Supervision, including, but not limited to: (a) payment of restitution to K.G.; (b) completion of all recommended counseling until discharged as recommended by Dr. Philip Witt, with progress reports to Respondent's probation officer four times per year; (c) continued employment of a practice monitor with patients and employees for

the duration of the PTI Term unless and until changed by the Board, with status reports to Respondent's probation officer four times per year; (d) completion of a twelve-week group session entitled maintenance of professional boundaries and accountability; (e) compliance with any additional recommendations of Dr. Witt; (f) payment of any out-of-pocket counseling expenses of the complainants that are directly related to the charges contained in the Indictment; (g) no treatment of female patients pending resolution of the Verified Complaint by the Board; and (h) completion of an exit psycho-sexual evaluation/risk assessment by Dr. Witt or one of his associates, including requiring Respondent to follow any additional recommendations before the PTI Term is completed and the order of dismissal is entered. If Respondent complies with the PTI Agreement and does not commit any crimes during the PTI Term, it is expected that the pending criminal charges will be dismissed pursuant to R. 3:28 at the completion of the PTI Term.

Pursuant to this settlement, Respondent, though Counsel, Susan Fruchtman, Esq., admits that he violated N.J.S.A. 45:1-21(e) by engaging in conduct contrary to the Policy Statement contained in Appendix A(v) to N.J.A.C. 13:35-6.3 as to employees.

The Board has determined that the within disposition is adequate to protect the public health, safety, and welfare.

Respondent consents and agrees to each and every term of this Consent Order. For such reasons and other good cause shown, IT IS on this 22<sup>nd</sup> day of March, 2007

ORDERED:

1. The license of Alan G. Kelsey, M.D. to practice medicine and surgery in this State is hereby suspended for a period of three (3) years retroactive to January 12, 2007 so that the period of suspension shall run concurrently with the terms of Respondent's PTI Agreement. Said suspension shall be stayed and served as a period of probation, subject to the following terms and conditions:

- (a) Compliance with all terms and conditions outlined in the January 12, 2007 PTI Agreement with the Hunterdon County Prosecutor's Office.
- (b) Provision to the Medical Director of the Board of a copy of the report resulting from the exit psycho-sexual evaluation/risk assessment that is required at the conclusion of Respondent's PTI Term.
- (c) Continued counseling with Dr. Sean Hiscox, during which treatment Dr. Hiscox shall provide quarterly written reports to the Board's Medical Director. At the conclusion of Respondent's treatment, Dr. Hiscox shall provide the Board with a full written report of Dr. Hiscox's diagnosis(es) and treatment outcome.

- (d) Use of a Board-approved monitor whenever Respondent interacts with female patients, female employees, and/or any other females at his medical office, in a healthcare facility, and/or in the homes of patients. Said monitor shall discuss his/her duties with the Board's Medical Director; sign his/her name to the patient record to document his/her observations, where applicable; provide monthly written reports to the Board's Medical Director; and advise the Board immediately in the event of any perceived untoward or questionable conduct by Respondent.
- (e) Demonstrated successful completion of the Board-approved twelve-week group seminar regarding maintenance of professional boundaries and accountability. Successful completion means that all sessions were attended, all assignments, if any, were properly and appropriately completed, and passing grades, if applicable, were achieved that were unconditional and without reservations. Respondent shall submit to the Board written verification of the successful completion of said course within twelve (12) months of entry of this Order.
- (f) Payment of the State's investigative costs in the amount of \$4,642.23, transcript costs of \$784.50, and attorney's fees in the amount of \$51,713.50, for a total of \$57,140.23. Said total amount shall be paid in equal

monthly installments over a period of thirty-six (36) consecutive months at the Court Rule rate of interest, which monthly installments shall be due by the 15th day of each month, commencing thirty (30) days after the entry of this Order and continuing until the balance is paid in full. All payments shall be submitted by certified check or money order made payable to the State of New Jersey and shall be sent to the attention of the Executive Director of the Board. The Board reserves the right to file a certificate of debt for the full amount of costs outstanding when the Order is entered by the Board. Failure to make timely payments shall be considered a violation of this Order, shall result in acceleration of the balance of debt, and shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e), thereby subjecting Respondent to any and all remedies available to the Board pursuant to N.J.S.A. 45:1-21 and 22.

- (g) Respondent shall be responsible for all costs related to the terms of probation set forth herein, including, but not limited to, all costs associated with the counseling, monitoring, and group seminar required herein.
- 2. Respondent shall notify all new office staff members that they are to immediately report to Ms. Kathy Kovacs, or any

successor office manager, any untoward or questionable behavior by anyone in his medical office.

3. At the conclusion of the three-year stayed suspension, Respondent shall appear before a Committee of the Board at which time he must demonstrate his satisfaction of the terms of his PTI Agreement and the terms of probation set forth herein. At this time, the Board will consider whether the Board-approved monitor needs to continue to monitor Respondent during his interaction with female patients, employees, and/or other women who are present when he is practicing medicine.

4. Respondent shall comply with the attached "Directives Applicable to Any Medical Board Licensee Who Is Disciplined or Whose Surrender of Licensure Has Been Accepted," which Directives are incorporated herein by reference.

5. All documents required herein to be sent to the Board, including, but not limited to, written counseling and monitoring reports, proof of successful completion of the group seminar, and payments, shall be sent to the following address: State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183.

6. This Order supersedes the Order of Temporary Limitation on Licensure filed in this matter on May 15, 2006 and fully resolves the allegations of the Verified Complaint pending in the Office of Administrative Law before the Honorable Carol I. Cohen,

ALJ and bearing Docket Number BDSME 07654-2006N.

STATE BOARD OF MEDICAL EXAMINERS

Sindy Paul, MD  
Sindy Paul, M.D., President

I have read the within Order. I understand the Order, and I agree to be bound by its terms and conditions. I hereby consent to the entry of this Order.

Alan G. Kelsey, MD  
Alan G. Kelsey, M.D.

3/22/2007  
Date

I hereby consent to the form and entry of this Order.

DeCotiis, FitzPatrick, Cole &  
Wisler, LLP  
Attorney for Alan G. Kelsey, M.D.

By:

Susan Fruchtman  
Susan Fruchtman, Esq.



**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

**APPROVED BY THE BOARD ON MAY 10, 2000**

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the addendum to these directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq: Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

**1. Document Return and Agency Notification**

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

### **3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### **4. Medical Records**

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the

licensee shall promptly provide the record without charge to the patient.

#### **5. Probation/Monitoring Conditions**

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and Inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

**NOTICE OF REPORTING PRACTICES OF BOARD  
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.